

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

126 CRM-M-718-2024 (O&M)
Reserved on:01.04.2024
Pronounced on: 18.04.2024

PARVESH KUMARI AND ANOTHER
...Petitioners

Versus

STATE OF HARYANA AND ANOTHER
...Respondents

CORAM:- HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present:- Ms. Diksha, Advocate for
Mr. Nikhil Mittal, Advocate
for the petitioners.

Mr. Amrik Singh Narwal, DAG, Haryana.

HARPREET KAUR JEEWAN , J.

1. The instant petition has been filed under Section 482 Cr.P.C. for quashing of FIR No.554 dated 01.09.2020 registered under Sections 406, 498-A, 506 IPC at Police Station Yamuna Nagar City, District Yamuna Nagar (Annexure P-1), challan against the petitioners (Annexure P-2) and charge against the petitioners (Annexure P-3) during the pendency of the trial and all consequential proceeding arising therefrom.

2. As per the factual matrix, marriage of the son of the petitioners was solemnized with respondent No.2-complainant on 10.12.2017. The respondent No.2-complainant moved a complaint dated 04.08.2020 for registration of the FIR against her husband and relatives of her husband upon which the present FIR was registered on 01.09.2020. It is an allegation that

during the period from 2017 to 2020, the husband and petitioners i.e. mother-in-law and father-in-law of the respondent No.2-complainant had subjected respondent No.2-complainant to cruelty in order to pressurize her to bring dowry. It is further an allegation that the petitioners and their co-accused had misappropriated the dowry articles/*istridhan* entrusted to them and they had been threatening the complainant during the above-said period. After conducting the investigation, the final report under Section 173 Cr.P.C. was presented against the petitioners and the husband of the respondent No.2-complainant. However, other relatives of the husband of the respondent No.2-complainant were declared innocent. The trial Court had framed the charges and issued a charge-sheet against the petitioners and their co-accused son-Ricky under Sections 406, 498-A and 506 IPC vide order dated 10.08.2021 (Annexure-P-3).

3. Learned counsel for the petitioners *inter alia* contends that the petitioners have been falsely implicated in the present case. There is no medical evidence to support the allegations of beatings given to the respondent No.2-complainant. During the investigation, nothing has been recovered from the petitioners. He further contends that the process of law has been misused for registration of the FIR as well as for presenting the challan against the petitioners. The respondent No.2 got registered the present false FIR just to take revenge against the petitioners and all their relatives as such, the criminal proceedings arising out of the present FIR are liable to be quashed.

4. Learned State counsel opposed the present petition on the ground of serious allegations levelled against the petitioners. He has informed that after the investigation, final report under Section 173 Cr.P.C. has been

presented against the petitioners and their son. He has further informed that no incriminating evidence has found qua other relatives of the husband of the respondent No.2-complainant, as such they have been declared innocent.

5. I have considered the aforesaid contentions and perused the record.

6. Hon'ble the Apex Court in **State of Haryana and others vs. Ch. Bhajan Lal and Others 1992 AIR SC 604**, laid down the broader guidelines and principles to exercise the extraordinary powers under Article 226 of the Constitution of India or inherent powers under Section 482 of the Code for quashing of the proceedings in criminal cases. The said principles read as under:-

“(1) Where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused;

(2) Where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code;

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused;

(4) Where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code;

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the

proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

7. Hon’ble the Apex Court in **Amit Kapoor vs. Ramesh Chander and Another 2012 (9) SCC 460**, laid down principles for quashing of FIR on merits where charges have been framed. It was held as under:-

“19. Having discussed the scope of jurisdiction under these two provisions i.e. Section 397 and Section 482 of the Code and the fine line of jurisdictional distinction, now it will be appropriate for us to enlist the principles with reference to which the Courts should exercise such jurisdiction. However, it is not only difficult but is inherently impossible to state with precision such principles. At best and upon objective analysis of various judgments of this Court, we are able to cull out some of the principles to be considered for proper exercise of jurisdiction, particularly, with regard to quashing of charge either in exercise of jurisdiction under Section 397 or Section 482 of the Code or together, as the case may be:-

1. “Though there are no limits of the powers of the Court under Section 482 of the Code but the more the power, the more due care and caution is to be exercised in invoking these powers. The power of quashing criminal proceedings, particularly, the charge framed in terms of Section 228 of the Code should be exercised very sparingly and with circumspection and that too in the rarest of rare cases.

2. The Court should apply the test as to whether the uncontroverted allegations as made from the record of the case and the documents submitted therewith prima facie establish the offence or not. If the allegations are so patently absurd and inherently improbable that no prudent person can ever reach such a conclusion and where the basic ingredients of a criminal offence are not satisfied then the Court may interfere.

3. The High Court should not unduly interfere. No meticulous

examination of the evidence is needed for considering whether the case would end in conviction or not at the stage of framing of charge or quashing of charge.

4. Where the exercise of such power is absolutely essential to prevent patent miscarriage of justice and for correcting some grave error that might be committed by the subordinate courts even in such cases, the High Court should be loath to interfere, at the threshold, to throttle the prosecution in exercise of its inherent powers.

5. Where there is an express legal bar enacted in any of the provisions of the Code or any specific law in force to the very initiation or institution and continuance of such criminal proceedings, such a bar is intended to provide specific protection to an accused.

6. The Court has a duty to balance the freedom of a person and the right of the complainant or prosecution to investigate and prosecute the offender.

7. The process of the court cannot be permitted to be used for an oblique or ultimate/ulterior purpose.

8. Where the allegations made and as they appeared from therecord and documents annexed therewith to predominantly give rise and constitute a 'civil wrong' with no 'element of criminality' and does not satisfy the basic ingredients of a criminal offence, the court may be justified in quashing the charge. Even in such cases, the court would not embark upon the critical analysis of the evidence.

9. Another very significant caution that the courts have to observe is that it cannot examine the facts, evidence and materials on record to determine whether there is sufficient material on the basis of which the case would end in a conviction; the court is concerned primarily with the allegations taken as a whole whether they will constitute an offence and, if so, is it an abuse of the process of court leading to injustice.

10. It is neither necessary nor is the court called upon to hold a full-fledged enquiry or to appreciate evidence collected by the investigating agencies to find out whether it is a case of acquittal or conviction.

11. Where allegations give rise to a civil claim and also amount to an offence, merely because a civil claim is maintainable, does not mean that a criminal complaint cannot be maintained.

12. In exercise of its jurisdiction under Section 228 and/or under Section 482, the Court cannot take into consideration external

materials given by an accused for reaching the conclusion that no offence was disclosed or that there was possibility of his acquittal. The Court has to consider the record and documents annexed therewith by the prosecution.

13. Quashing of a charge is an exception to the rule of continuous prosecution. Where the offence is even broadly satisfied, the Court should be more inclined to permit continuation of prosecution rather than its quashing at that initial stage. The Court is not expected to marshal the records with a view to decide admissibility and reliability of the documents or records but is an opinion formed prima facie.

14. Where the charge-sheet, report under Section 173(2) of the Code, suffers from fundamental legal defects, the Court may be well within its jurisdiction to frame a charge.

15. Coupled with any or all of the above, where the Court finds that it would amount to abuse of process of the Code or that the interest of justice favours, otherwise it may quash the charge. The power is to be exercised ex debito justitiae i.e. to do real and substantial justice for administration of which alone, the courts exist.”

20. These are the principles which individually and preferably cumulatively (one or more) be taken into consideration as precepts to exercise of extraordinary and wide plenitude and jurisdiction under Section 482 of the Code by the High Court. Where the factual foundation for an offence has been laid down, the courts should be reluctant and should not hasten to quash the proceedings even on the premise that one or two ingredients have not been stated or do not appear to be satisfied if there is substantial compliance with the requirements of the offence.”

8. The said principles were also reiterated by Hon’ble the Apex Court in **Supriya Jain vs. State of Haryana, 2023 (7) SCC 711.**

9. It is not disputed that the marriage between the son of the petitioners and respondent No.2 was solemnized on 10.12.2017 at Yamuna Nagar. As per the version of the respondent No.2-complainant in the FIR, she belongs to a poor family. After her marriage, she was treated well by her in-laws for a period of about 1 month and thereafter she stayed in her parental

house in Yamuna Nagar for about 8 months as there were allegations against the petitioner No.1-mother-in-law for raising demands of dowry and taunting the respondent No.2-complainant. The respondent No.2-complainant is alleged to have been beaten up by her husband and thereafter she fell sick. Thereafter, in-laws of the respondent No.2-complainant apologized to the parents of complainant-respondent No.2 and she was taken back to her matrimonial house. After few days of coming back to her matrimonial home, respondent No.2-complainant was again taunted for bringing less dowry; and demand of car and money was again raised. As per the FIR lodged by respondent No.2-complainant, there are specific allegation against the petitioners that on 20.03.2020, the petitioners along with her son i.e. the husband of the respondent No.2-complainant gave severe physical beatings to her and she was attacked with an intention to kill her, however she was saved with the intervention of the relatives of her husband namely Sh. Manga and others, who took her to their home. In May 2020, with the intervention of the respectables, the respondent No.2-complainant was again rehabilitated in her matrimonial home, however, after about a month, she was again beaten up and abused and ultimately on 21.06.2020, both the petitioners gave beatings to her and she was turned out of her matrimonial house. There are also allegations of entrustment of various articles including gold and silver jewellery. On 23.06.2020, the husband of the respondent No.2-complainant along with his aunt accompanied the respondent No.2-complainant to drop her to her parents house but he got down from the car near a hotel and told the respondent No.2-complainant to bring a sum of Rupees five lakhs and a car and also gave threats to kill her in case she does not bring the said amount. Ultimately a relative of the husband of

respondent No.2-complainant dropped her to the house of aunt of respondent No.2-complainant in Yamuna Nagar. However all belongings of the respondent No.2-complainant are still with the possession of her in-laws.

10. There are specific allegations against the petitioners regarding harassment to the respondent No.2-complainant on account of demand of dowry. Both the petitioners and their son are residing together in the same house, where the respondent No.2-complainant was residing after her marriage. The FIR as well as final report presented under Section 173 Cr.P.C. discloses that *prima facie* a cognizable offence is made out.

11. The contentions raised on behalf of the petitioners that they have been falsely implicated in this case are matter of trial. At this stage, there is no such circumstance on record indicating that the case is made out for quashing of the FIR and the case does not fall in any of the categories as per the decision of Hon'ble Apex Court in **State of Haryana and others vs. Ch. Bhajan Lal and Others 1992 AIR SC 604 (supra)**. Similarly, even if we apply the test as per the decision of the Hon'ble Apex Court in **Amit Kapoor vs. Ramesh Chander and Another 2012 (9) SCC 460 (supra)**, the case does not fall in any of the categories mentioned therein for invoking jurisdiction under Section 482 Cr.P.C. for quashing of the FIR.

11. Keeping in view the facts of the present case that there are specific allegations against the petitioners, where mother-in-law and father-in-law of the respondent No.2-complainant raised demand of dowry immediately after the marriage of respondent No.2-complainant with son of the petitioners and there are specific allegations about the cruelty on account of demand of dowry, the present FIR, the final report under Section 173 Cr.P.C. submitted by the

Investigating Agency, the order framing charges and issuance of charge sheet against the petitioners cannot be quashed under Section 482 Cr.P.C.

12. As such, the present petition has no merits and is accordingly dismissed.

13. All pending miscellaneous application(s), if any, stands disposed of.

(HARPREET KAUR JEEWAN)

JUDGE

18.04.2024

P.Bhatt

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No